

**SBC Illinois  
Verified Complaint**

**Exhibit D**

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

<b>Illinois Bell Telephone Company</b>	:	
<b>(SBC Illinois) and</b>	:	
<b>AT&amp;T Communications of Illinois, Inc.</b>	:	
	:	<b>04-0772</b>
<b>Joint Petition for Approval of</b>	:	
<b>Fourth Amendment to the Interconnection</b>	:	
<b>Agreement dated November 11, 2004,</b>	:	
<b>pursuant to 47 U.S.C. § 252.</b>	:	

**ORDER**

By the Commission:

**I.     PRELIMINARY MATTERS**

On December 13, 2004, pursuant to 83 Illinois Administrative Code Part 763, Illinois Bell Telephone Company ("SBC Illinois") and AT&T Communications of Illinois, Inc. ("AT&T"), filed a joint request for approval of Forth Amendment to an Interconnection Agreement dated November 11, 2004 (the "Agreement"), under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996, 47 U.S.C. 151, et seq. ("the Act"). A statement in support of the request were filed along with verifications sworn to by Eddie A. Reed, on behalf of SBC Illinois, and Fredrik Cederqvist on behalf of AT&T, stating that the facts contained in the request for approval are true and correct.

Staff filed the Verified Statement of Olusanjo Omoniyi of the Commission's Telecommunications Division, which was admitted into the record recommending approval of the agreement. Since there were no issues in dispute, the hearing was waived by the Administrative Law Judge. The record was marked "Heard and Taken" on January 18, 2005.

**II.    SECTION 252 OF THE TELECOMMUNICATIONS ACT**

Section 252(a)(1) of the Act allows parties to enter into Negotiated Agreements regarding requests for interconnection, services or network elements. SBC Illinois and AT&T have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted

"shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity." Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved."

Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

### III. THE AGREEMENT

The instant agreement between Illinois Bell Telephone Company ("SBC Illinois" or "Carrier") and AT&T Communications of Illinois, Inc. ("AT&T Communications of Illinois, Inc." or "Requesting Carrier") is the 4<sup>th</sup> Amendment to the Interconnection Agreement between the parties dated November 11, 2004. The underlying Agreement is being amended as a result of the Commission Order ("Order") issued in Case 02-0864, on June 9, 2004, setting forth certain Illinois-specific prices and other requirements pertaining to unbundled network elements ("UNEs") that are included in the Agreement. Provisions of the Agreement require the incorporation into the Agreement of new prices such as those established by the Order. This Amendment does not modify or extend the Effective Date or Term of the underlying Agreement but, rather, is coterminous with the underlying Agreement. Except as modified in this Amendment, all other terms and conditions of the underlying Agreement remain unchanged and in full force and effect.

### IV. STAFF'S POSITION

Staff reviewed the Agreement based on the standards set forth in Section 252(e)(2) of the Act. Under this Section, the Commission may only reject an agreement, or any portion thereof, adopted by negotiation under subsection (a) if it finds that (i) the agreement, or any portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Since this Agreement is based solely on the needs and interest of these parties, nothing in this agreement leads me to the conclusion that the agreement is inequitable, inconsistent with past Commission Orders, or in violation of state or federal law. Ms. Liu recommends that the Commission approve this agreement.

In addition, Staff recommends that the Commission require SBC Illinois to file, within five (5) days from the date upon which the Agreement is approved, with the Office of the Chief Clerk, a verified statement that the approved agreement is the same as the one as the Agreement filed in this docket with the Verified Petition. Staff also recommends that the Chief Clerk place the agreement on the Commission's web site under Interconnection Agreements. Staff's recommendations are reasonable and should be adopted.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (2) SBC Illinois and AT&T are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;
- (3) On November 11, 2004, SBC Illinois and AT&T entered into an Agreement, which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) the Agreement between SBC Illinois and AT&T, does not discriminate against a telecommunications carrier not a party to the Agreement and it is not contrary to the public interest, convenience and necessity;
- (6) in order to assure that the Agreement is in the public interest, SBC Illinois should implement the Agreement by filing, within five (5) days from the date the Agreement is approved, a verified statement with the Chief Clerk of the Commission stating that the approved Agreement is the same as Agreement filed in this docket with the Verified Petition. The Chief Clerk shall place the Agreement on the Commission's web site under Interconnection Agreements;
- (7) SBC Illinois should also place replacement sheets in its tariffs at the following location: Agreements with Telecommunications Carriers: Ill. No. 16 Section 18;
- (8) the Agreement should be approved as hereinafter set forth;

- (9) approval of the Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Agreement dated November 11, 2004, between SBC Illinois and AT&T is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that SBC Illinois shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 2nd day of February, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

<b>Illinois Bell Telephone Company</b>	:	
<b>(SBC Illinois) and</b>	:	
<b>Focal Communications Corp of Illinois</b>	:	
	:	
<b>Joint Petition for Approval of</b>	:	<b>04-0782</b>
<b>3rd Amendment to the Interconnection</b>	:	
<b>Agreement dated December 8, 2004,</b>	:	
<b>pursuant to 47 U.S.C. § 252.</b>	:	

**ORDER**

By the Commission:

**I. PRELIMINARY MATTERS**

On December 15, 2004, pursuant to 83 Illinois Administrative Code Part 763, Illinois Bell Telephone Company ("SBC Illinois") and Focal Communications Corporation of Illinois ("Focal Communications"), filed a joint request for approval of Third Amendment to an Interconnection Agreement dated December 8, 2004 (the "Agreement"), under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996, 47 U.S.C. 151, et seq. ("the Act"). A statement in support of the request were filed along with verifications sworn to by Eddie A. Reed, on behalf of SBC Illinois, and Daniel E. Meldazis on behalf of Focal Communications, stating that the facts contained in the request for approval are true and correct.

Staff filed the Verified Statement of Olusanjo Omoniyi of the Commission's Telecommunications Division, which was admitted into the record recommending approval of the agreement. Since there were no issues in dispute, the hearing was waived by the Administrative Law Judge. The record was marked "Heard and Taken" on January 18, 2005.

**II. SECTION 252 OF THE TELECOMMUNICATIONS ACT**

Section 252(a)(1) of the Act allows parties to enter into Negotiated Agreements regarding requests for interconnection, services or network elements. SBC Illinois and Focal Communications have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity." Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved."

Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

### III. THE AGREEMENT

The instant agreement between Illinois Bell Telephone Company ("SBC ILLINOIS" or "Carrier") and Focal Communications Corp of Illinois ("Focal Communications" or "Requesting Carrier") is the 3<sup>rd</sup> Amendment to the Interconnection Agreement between the parties dated December 8, 2004. The underlying Agreement is being amended as a result of the Commission Order ("Order") issued in Case 02-0864, on June 9, 2004, setting forth certain Illinois-specific prices and other requirements pertaining to unbundled network elements ("UNEs") that are included in the Agreement. Provisions of the Agreement require the incorporation into the Agreement of new prices such as those established by the Order. This Amendment does not modify or extend the Effective Date or Term of the underlying Agreement but, rather, is coterminous with the underlying Agreement. Except as modified in this Amendment, all other terms and conditions of the underlying Agreement remain unchanged and in full force and effect.

### IV. STAFF'S POSITION

Staff reviewed the Agreement based on the standards set forth in Section 252(e)(2) of the Act. Under this Section, the Commission may only reject an agreement, or any portion thereof, adopted by negotiation under subsection (a) if it finds that (i) the agreement, or any portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Since this Agreement is based solely on the needs and interest of these parties, nothing in this agreement leads me to the conclusion that the agreement is inequitable, inconsistent with past Commission Orders, or in violation of state or federal law. Mr. Omoniyi recommends that the Commission approve this agreement.

In addition, Staff recommends that the Commission require SBC Illinois to file, within five (5) days from the date upon which the Agreement is approved, with the Office of the Chief Clerk, a verified statement that the approved agreement is the same as the one as the Agreement filed in this docket with the Verified Petition. Staff also recommends that the Chief Clerk place the agreement on the Commission's web site under Interconnection Agreements. Staff's recommendations are reasonable and should be adopted.

#### V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (2) SBC Illinois and Focal Communications are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;
- (3) On December 8, 2004, SBC Illinois and Focal Communications entered into an Agreement, which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) the Agreement between SBC Illinois and Focal Communications, does not discriminate against a telecommunications carrier not a party to the Agreement and it is not contrary to the public interest, convenience and necessity;
- (6) in order to assure that the Agreement is in the public interest, SBC Illinois should implement the Agreement by filing, within five (5) days from the date the Agreement is approved, a verified statement with the Chief Clerk of the Commission stating that the approved Agreement is the same as Agreement filed in this docket with the Verified Petition. The Chief Clerk shall place the Agreement on the Commission's web site under Interconnection Agreements;



- (7) SBC Illinois should also place replacement sheets in its tariffs at the following location: Agreements with Telecommunications Carriers: Ill. No. 16 Section 18;
- (8) the Agreement should be approved as hereinafter set forth;
- (9) approval of the Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Agreement dated December 2, 2004, between SBC Illinois and Focal Communications is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that SBC Illinois shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 2<sup>nd</sup> day of February, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman